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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,677	06/12/2001	Yesim Erke	END92001002SUS1	5004

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EXAMINER

ZEENDER, FLORIAN M

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/879,677

Applicant(s)

ERKE ET AL.

Examiner

F. Ryan Zeender

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 14-18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 10-13 and 19 is/are rejected.
- 7) ☒ Claim(s) 3-7 and 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-13 and 19, drawn to a method of determining inventory levels of parts for a plurality of stocking locations, classified in class 705, subclass 28.
- II. Claims 14-18, drawn to a computer system for controlling inventory levels, classified in class 708, subclass 100+.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case, the process as claimed can be practiced by hand in that the "parts procurement time performance measure" does not have to be computed on a computer processor.

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. John R. Pivnichny on 4/14/03 a provisional election was made without traverse to prosecute invention I, claims 1-13, and 19. Affirmation of this election must be made by applicant in replying to this Office

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action. Claims 14-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

### ***Specification***

The disclosure is objected to because of the following informalities: On page 8, line 10, it appears "nearly" should be changed to --nearby--. On page 14, line 1, it appears, "each parts" should be changed to --each part--. Appropriate correction of grammatical errors is required.

The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Objections***

Claims 3-4 are objected to because of the following informalities: In claim 3, line 1, it appears "rates includes" should be --rates include--. Appropriate correction of informalities is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, 10-13, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over of Peterson et al. '522 in view Feigin et al. '196.

Peterson et al. '522 disclose or inherently teach a method of determining inventory levels of parts for a plurality of stocking locations (i.e., vendors); the method comprising the steps of providing data and request rates (i.e., purchase orders) for a plurality of customer (i.e., end user) locations, unit price, handling costs (Col. 5, line 15), and transportation costs (see Col. 5, line 14) for other vendors and customers.

Peterson et al. '522 lack the teaching of the providing handling costs, travel time, specifying a parts procurement time performance measure and entering the data into a computer program, computing inventory levels using the computer program and ordering to maintain part inventory levels.

Feigin et al. teach a method of determining inventory levels of parts for a plurality of stocking locations (retail locations) including a parts procurement time performance measure (lead time, "L" which includes travel time) and entering the data into a computer program, computing inventory levels using the computer program and ordering to maintain part inventory levels.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Peterson et al. to include a parts procurement time performance measure and entering the data into a computer program, computing inventory levels using the computer program and ordering to maintain part inventory levels, in view of

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Feigin et al., in order to provide a means to more accurately project future inventory levels (See Feigin et al., Col. 1, lines 11-16).

Re claims 3-4: probability distributions are well known in the art of computer programming, and their use would have obvious to one of ordinary skill in the art at the time of the invention, in order to determine certain desired statistics.

Re claims 8 and 11: mixed integer optimization programs are well known in the art of computer programming, and their use would have obvious to one of ordinary skill in the art at the time of the invention, in order to provide certain desired results.

Re claim 10: Shipping companies such as "**FedEx**" provide information with regards to the time of shipping; and to compute this information would have been obvious to one of ordinary skill in the art at the time of the invention in order to provide the customer with precise delivery times.

### ***Allowable Subject Matter***

Claims 5-7, 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Ryan Zeender whose telephone number is (703) 308-8351. The examiner can normally be reached on Monday-Friday, 8am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bob Olszewski can be reached on (703) 308-5183. The receptionist's phone number for the Technology center is (703) 308-1113 and the customer service number is (703) 872-9325.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for before Final communications and (703) 872-9327 for after Final communications.

*F. Zeender 4/14/03*

F. Zeender  
Patent Examiner, A.U. 3627  
April 14, 2003